



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,107	09/16/2003	Akihiro Tsuchizaki	032405.153	1813

25461 7590 07/20/2005

SMITH, GAMBRELL & RUSSELL, LLP
1230 PEACHTREE STREET, N.E.
SUITE 3100, PROMENADE II
ATLANTA, GA 30309-3592

EXAMINER

STERLING, AMY JO

ART UNIT	PAPER NUMBER
----------	--------------

3632

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/663,107	TSUCHIZAKI, AKIHIRO	
	Examiner	Art Unit	
	Amy J. Sterling	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/16/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3632

DETAILED ACTION

This is the first Office Action for application number 10/663,107 License Plate Holding Bracket and the Holding Structure thereof, filed on 9/16/03. Claims 1-21 are pending. This application claims priority to Japan 2002-270020, 2002-270040, 2002-270044, 2002-270109, 2002-270116 all dated 9/17/02.

Information Disclosure Statement

The information disclosure statement submitted on 9/16/03 and 12/29/03 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "hook formed in the resin member" of claim 9 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

Art Unit: 3632

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1-21 are objected to because of the following informalities:

A. The claims are replete with grammatical errors and all grammatical errors should be corrected. The list of examples as shown below are not intended to be exhaustive.

Examples of grammatical errors:

Claim 1, lines 3-4, "for setting up the bed in a closed state"

Claim 1, lines 14-15, "the plate holding member make the license plate to take a parallel state".

Claim 2, lines 5-6, "when the license plate almost erects on the tailgate"

Art Unit: 3632

B. It is not clear whether parts of a vehicle such as the "tailgate" or the "bumper" are intended to be a positive limitation of the claim or merely an environment for use. This is only an example and not intended to be an exhaustive list. All situations in which this occurs in the claims should be addressed.

For example claim 1 recites, "a gate side fixing member fixed to the tailgate". If the "tailgate" is intended to be a positive limitation of the claim then the claim should recite "a tailgate". If the "tailgate" is intended to be an intended use of the holding bracket, then the limitations of the claims should be changed to incorporate functional language.

C. There are many typographical errors in the claims, examples shown below: The examples below are not intended to be an exhaustive list. All typographical errors should be corrected.

For example, Claim 1, line 12 recites, "a gate side fixing member". This should be "the gate side fixing member".

Claim 6 recites, "a plain shape" which is likely intended to be a "plane shape".

Appropriate correction is required to all objections.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact

Art Unit: 3632

terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 12 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification does not enable how to make or use the "welded bolt". The specification does not teach how the bolt is welded. The claim was examined as the claim were just be recite a "bolt".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 12 and 20 recite a "welded bolt" and it is unclear whether the bolt is welded to itself or if the bolt is welded to a portion of the frame.

Claim 13 recites, "a member with a groove formed along the plate holding member, through the groove:" and it is unclear how the member can have a groove and still be through the groove.

Art Unit: 3632

Claim 13 also recites, "a pin arranged on said side of a second end of the stay being passed" and it is unclear what is meant by this phrase.

Claim 14 recites, "wherein the stay performs a reciprocal and rotational movement from a state where the stay is in parallel with the gate side fixing member by and angle exceeding 90 degrees" and it is unclear how the stay is in parallel and at an angle of 90 degrees.

Claim 14 recites, "and wherein the second end is formed to be bent" and it is unclear as to whether the second end is of the "stay", as recited by claim 13, line 11 or of the groove as recited by claim 14. The claim was examined as if it were to mean the second end of the "stay". It is also unclear if "formed to be bent" means that the stay is flexible.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent Publication No. 2003/0127879 to Smith.

Art Unit: 3632

The publication to Smith discloses a license plate holding bracket fixed or attached to a tailgate (12') which is arranged at a rear end of a cargo bed of a vehicle having gate side fixing member (18) fixed to the tailgate, a plate holding member (24) for holding a license plate and a rotational holding member movement mechanism (26), for connecting the plate holding member to the gate side fixing member and allows the plate holding member to freely be parallel to or stand erect with respect to the tailgate.

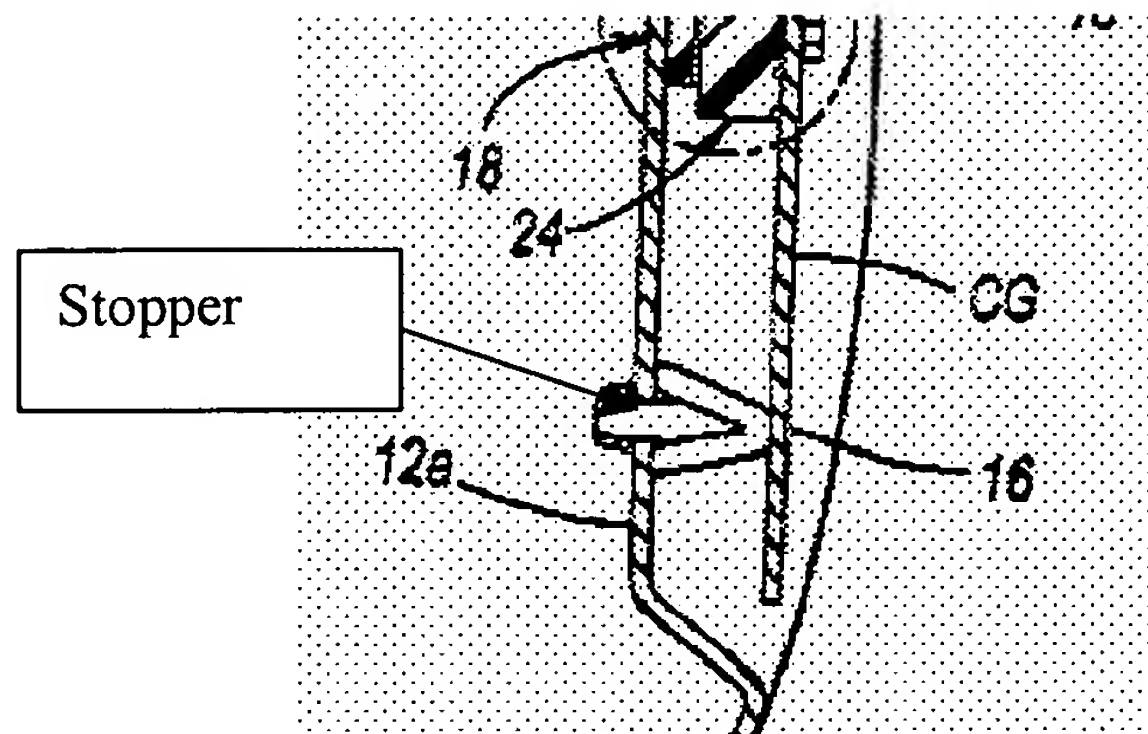
Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4, 6 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Publication No. 2003/0127879 to Smith as applied to claim 1 above, and in view of Japan 2004-182152 to Ofu.

Smith discloses applicant's basic inventive concept including wherein the end side of the fixing member and the plate holding member are connected and both have a plane shape, and a stopper member (See Drawing Below, Fig. 6).



Smith does not teach wherein the stopper member resides on the plate holding member and is brought into contact with the rear bumper of a vehicle when the tailgate is horizontal and the license plate is almost erect with respect to the tailgate and contacts the tailgate and the gate side fixing member when the license plate is parallel to the tailgate and wherein the tailgate has a cavity for receiving the stopper.

Ofu teaches a license plate holding bracket (14) which has a gate side fixing member (6) and a plate holding member (15) which has a stopper (See Fig. 4) attached to the plate holding member (15) which resides on a bumper (1) when in an erect state. Although the reference does not specifically teach a tailgate, the bumper (1) could be defined as a tailgate in regards to claim 21, the cavity (2) which could receive the stopper in that the stopper can contact the tailgate or the gate side fixing member or a bumper, evident from the adjustability of the structure of the Ofu device. The stopper may contact a variety of vehicle or holder portions which reside near the stopper and it would be obvious to have them contact a nearby element in order to keep the license plate from damaging the element. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Ofu to

Art Unit: 3632

have had the stopper on the plate holding member and the ability to contact a variety of surfaces in order to keep the surfaces from sustaining damage.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Publication No. 2003/0127879 to Smith, and in view of Japan 2004-182152 to Ofu as applied to claim 2 above and further in view of United States Patent No. 4302896 to Bott.

Smith and Ofu teach the basic inventive concept with the exception that they do not disclose that the stopper is made from an elastic material.

Bott teaches a holding bracket with elastic bumpers (See Col. 4 lines 29-32) used for vibration damping due to its resilient and deformable properties. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Bott to have made the stopper of elastic material in order to dampen vibration.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Publication No. 2003/0127879 to Smith, and in view of Japan 2004-182152 to Ofu as applied to claims 2 and 6 above and further in view of United States Patent No. 1573113 to Irie.

Smith and Ofu teach the basic inventive concept with the exception that they do not disclose a lock mechanism with a latch arranged in a side of the plate holding

Art Unit: 3632

member and a striker arranged in the side of the gate side fixing member and a biasing member.

Irie teaches a holding bracket with a gate side fixing member (16) and a rotatable plate holding member (21), with a lock mechanism which includes a latch (27) on a side of the plate holding member and a striker (26) arranged in the side of the gate side fixing member (16) and a biasing member (28). This locking member is used for locking the plate holding member to the gate side fixing member in a detachable manner the biasing member used for biasing the two elements in a desired direction. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Irie to have added a lock mechanism in order to detachably lock the elements one to another and to bias the two elements in a desired direction.

Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Publication No. 2003/0127879 to Smith, and in view of Japan 2004-182152 to Ofu as applied to claim 2 above and further in view of United States Patent No.4270287 to Gimbel.

Smith and Ofu teach the basic inventive concept with the exception that they do not disclose wherein the plate holding member has a hole therein and a resin member with a hook for detachably engaging the periphery of the hole, and a fixing member which is for fixing the resin member which could contact the tailgate, when the license

Art Unit: 3632

plate is parallel with the tailgate, and a bolt arranged in the plate holding member and a nut.

Gimbel discloses a holding bracket (10) which teaches a plate holding member (44, 46) wherein the plate holding member (44, 46) has a hole therein, and a resin member (20, See Col. 3, line 37 for material) with a hook (14, 18) for detachably engaging the periphery of the hole, and a fixing member (36, 38) being a bolt (36) arranged in the plate holding member (44, 46) and a nut (38) which is for fixing the resin member (20) which could contact the tailgate (42) via the plate holding member (44, 46), when the license plate is parallel with the tailgate (42). This configuration is used so that the license plate has a detachable protective cover to protect the plate from dirt and the license tabs from theft. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Gimbel to have used the resin cover with the above configuration to keep the plate clean and intact.

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Publication No. 2003/0127879 to Smith, as applied to claim 1 above and further in view of United States Patent No. 1573113 to Irie.

Smith discloses applicant's basic inventive concept and including the first end of a stay (the entire rotational mechanism) which performs a reciprocal and rotational movement from a state wherein the stay is in parallel with the gate side fixing member to an angle of 90 degrees when the plate holding member is almost erect on the gate

Art Unit: 3632

side fixing member, the stay which is attached to the gate side fixing member which includes a pin (28) arranged on the side of a second end of the stay which is bent toward the center of the rotational movement and which is being passed and a member with a groove (end faces of 24 and 26), the pin being placed at the first end of the groove, when the plate holding member is parallel and the pin being placed at the second end of the groove when the plate holding member is almost erect, and a pin engaging member (38) formed along the plate holding member, wherein the plate holding member is supported by the stay when the plate holding member is erect on the gate side fixing member. Smith does not teach a locking mechanism which includes a latch on a side of the plate holding member and a striker arranged in the side of the gate side fixing member (16) and a biasing member.

Irie teaches a holding bracket with a gate side fixing member (16) and a rotatable plate holding member (21), with a lock mechanism which includes a latch (27) on a side of the plate holding member and a striker (26) arranged in the side of the gate side fixing member (16) and a biasing member (28). This locking member is used for locking the plate holding member to the gate side fixing member in a detachable manner, the biasing member used for biasing the two elements in a desired direction. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Irie to have added a lock mechanism in order to detachably lock the elements one to another and to bias the two elements in a desired direction.

Art Unit: 3632

Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Publication No. 2003/0127879 to Smith and in view of United States Patent No. 1573113 to Irie as applied to claim 13 above and further in view of United States Patent No. 4270287 to Gimbel.

Smith and Irie show the basic inventive concept with the exception that they do not show wherein the plate holding member has a hole therein and a resin member with a hook for detachably engaging the periphery of the hole, and a fixing member which is for fixing the resin member which could contact the tailgate, when the license plate is parallel with the tailgate, and a bolt arranged in the plate holding member and a nut.

Gimbel discloses a holding bracket (10) which teaches a plate holding member (44, 46) wherein the plate holding member (44, 46) has a hole therein, and a resin member (20, See Col. 3, line 37 for material) with a hook (14, 18) for detachably engaging the periphery of the hole, and a fixing member (36, 38) being a bolt (36) arranged in the plate holding member (44, 46) and a nut (38) which is for fixing the resin member (20) which could contact the tailgate (42) via the plate holding member (44, 46), when the license plate is parallel with the tailgate (42). This configuration is used so that the license plate has a detachable protective cover to protect the plate from dirt and the license tabs from theft. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Gimbel to have used the resin cover with the above configuration to keep the plate clean and intact.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following documents show various holding brackets

6338519 to Decker et al.

6796060 to Meester et al.

3274723 to Jacobs


2803810 to Evans et al.

2791046 to Goldberg

1259555 to Reilly

1250543 to Bartolomeo

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 571-272-6815. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 571-273-6823 (informal amendments). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600


Amy J. Sterling
6/29/05